

AMENDED IN ASSEMBLY APRIL 18, 2002

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2313**

**Introduced by Assembly Member Chu**

February 21, 2002

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An act to amend Sections 14030.1, 14030.2, 14037.6, 14045, 14075, and 14076 of the Corporations Code, and to amend and renumber Section 15346.10 of, and to repeal Section 15346.12 of, the Government Code, relating to economic development, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 2313, as amended, Chu. Economic development.

(1) Existing law, the Small Business Financial Development Corporation Law, creates the California Small Business Expansion Fund, which is continuously appropriated. Under existing law, this fund may be used to prevent business insolvencies and loss of employment in an area affected by a disaster declared by the President of the United States or the Administrator of the United States Small Business Administration, or a state of emergency declared by the Governor of California. Within the California Small Business Expansion Fund is the Small Business Disaster Recovery Loan Loss Reserve Account that may be used for these same purposes in an area affected by a specified state of emergency that began in the Los Angeles area on April 29, 1992, and related incidents throughout the state that have been declared a disaster by any of these officials.

This bill would expand the circumstances under which funds in this account may be used by deleting its current restrictions and allowing its

use in an area affected by a disaster declared by the President of the United States, the Administrator of the United States Small Business Administration, or the United States Secretary of Agriculture or to be in a state of emergency declared by the Governor. The bill would also correspondingly revise the circumstances under which moneys in the fund may be used in response to emergency situations, including those declared a disaster by the United States Secretary of Agriculture ~~and deleting those declared by the Administrator of the United States Small Business Administration~~. Because the bill would authorize the expenditure of revenue in a continuously appropriated fund for a new purpose, it would thereby make an appropriation.

(2) Existing law, the California Defense Retention and Conversion Act of 1999, requires the Technology, Trade, and Commerce Agency to establish a Defense Retention Grant Program to provide funds to communities with military bases for the development of a strategy to retain these facilities.

This bill would delete provisions declaring the Legislature's intent regarding the amount of starting capital for the grant program and limiting the amount of the grant made by the agency under this program.

Vote: <sup>2</sup>/<sub>3</sub>. Appropriation: yes. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 14030.1 of the Corporations Code is  
2 amended to read:  
3 14030.1. (a) There is hereby created in the State Treasury the  
4 Small Business Disaster Recovery Loan Loss Reserve Account, as  
5 part of the expansion fund. This account shall be used to pay for  
6 unrecovered losses resulting from loan guarantees issued pursuant  
7 to subdivision (a) of Section 14075 and subdivision (b) of this  
8 section and disaster loan guarantees issued prior to the effective  
9 date of this section that are in default. Any lending institution that  
10 issues a low-interest loan that is guaranteed by resources in this  
11 account shall be fully reimbursed for the guaranteed portion of  
12 principal and interest that result from a loan or loans that are in  
13 default. If there are insufficient funds in this account to fully  
14 satisfy all claimants, the full faith of the resources in the General  
15 Fund are pledged to satisfy the obligations of this account. This  
16 account may only guarantee as much loan dollar value as is



1 specifically authorized by the Director of Finance with the  
2 concurrence of the Governor. This account shall receive all  
3 moneys transferred pursuant to Section 14037.6, and any  
4 unencumbered balances transferred to the California Small  
5 Business Expansion Fund pursuant to Chapters 11 and 12 of the  
6 Statutes of 1989, First Extraordinary Session, and Chapter 1525  
7 of the Statutes of 1990, as of July 1, 1992.

8 (b) The Governor should utilize this authority to prevent  
9 business insolvencies and loss of employment in an area affected  
10 by a state of emergency within the state and declared a disaster by  
11 the President of the United States, *by the Administrator of the*  
12 *United States Small Business Administration*, or by the United  
13 States Secretary of Agriculture or declared to be in a state of  
14 emergency by the Governor of California.

15 SEC. 2. Section 14030.2 of the Corporations Code is  
16 amended to read:

17 14030.2. (a) The director may establish accounts within the  
18 expansion fund for loan guarantees and surety bond guarantees,  
19 including loan loss reserves. Each account is a legally separate  
20 account, and shall not be used to satisfy loan or surety bond  
21 guarantees or other obligations of another corporation. The  
22 director shall recommend whether the expansion fund and  
23 corporate fund accounts are to be leveraged, and if so, by how  
24 much. Upon the request of the corporation, the director's decision  
25 may be repealed or modified by a board resolution.

26 (b) Annually, not later than January 1 of each year commencing  
27 January 1, 1996, the director shall prepare a report regarding the  
28 loss experience for the expansion fund for loan guarantees and  
29 surety bond guarantees for the preceding fiscal year. At a  
30 minimum, the report shall also include data regarding numbers of  
31 surety bond and loan guarantees awarded through the expansion  
32 fund, including ethnicity and gender data of participating  
33 contractors and other entities, and experience of surety insurer  
34 participants in the bond guarantee program. The director shall  
35 submit that report to the Secretary of Technology, Trade, and  
36 Commerce for transmission to the Governor and the Legislature.

37 SEC. 3. Section 14037.6 of the Corporations Code is  
38 amended to read:

39 14037.6. (a) (1) The Director of Finance, with the approval  
40 of the Governor, may transfer moneys in the Special Fund for

1 Economic Uncertainties to the California Small Business  
2 Expansion Fund for use by the Office of Small Business in the  
3 Technology, Trade, and Commerce Agency, in an amount  
4 necessary to make loan guarantees pursuant to this chapter.  
5 However, no more than five million dollars (\$5,000,000) may be  
6 transferred pursuant to this section in connection with any single  
7 declared disaster.

8 (2) The Director of Finance, or his or her designee, within 30  
9 days of any transfer made pursuant to this section, shall provide  
10 notice of the amount of the transfer to the chair of the Joint  
11 Legislative Budget Committee and the chair of the committee in  
12 each house that considers appropriations.

13 (b) The Governor should utilize this authority to prevent  
14 business insolvencies and loss of employment in an area affected  
15 by a state of emergency within the state and declared a disaster by  
16 the President of the United States or by the ~~United States~~  
17 *Administrator of the United States Small Business Administration,*  
18 *or by the United States Secretary of Agriculture* or declared to be  
19 in a state of emergency by the Governor of California.

20 (c) This section shall remain in effect until January 1, 2007, and  
21 as of that date is repealed, unless a later enacted statute, which is  
22 enacted before January 1, 2007, deletes or extends that date.

23 SEC. 4. Section 14045 of the Corporations Code is amended  
24 to read:

25 14045. Upon approval by the director to become a  
26 corporation, the entity shall adopt or amend its articles of  
27 incorporation to comply with the following:

28 (a) The name of the corporation shall include the words “small  
29 business financial development corporation,” except for those  
30 corporations formed pursuant to this part prior to 2002, which may  
31 also be called “small business development corporations,” or  
32 those formed prior to 1985, which may also be called “rural or  
33 urban development corporations.”

34 (b) The purposes for which the corporation is formed, which  
35 shall be those specified in Section 14002. This requirement shall  
36 not be deemed to preclude a statement of powers.

37 (c) A geographical description of the corporation’s service  
38 area.

1 (d) The name and addresses of seven or more persons who are  
2 to act in the capacity of directors until the selection of their  
3 successors.

4 (e) That the corporation is organized pursuant to the California  
5 Small Business Financial Development Corporation Law.

6 SEC. 5. Section 14075 of the Corporations Code is amended  
7 to read:

8 14075. (a) A corporation may, in an area declared to be in a  
9 state of emergency by the Governor, provide loan guarantees from  
10 funds allocated in Section 14037.5 to small businesses, small  
11 farms, nurseries, and agriculture-related enterprises that have  
12 suffered actual physical damage or significant economic injury as  
13 a result of the disaster.

14 (b) The agency may adopt regulations to implement the loan  
15 guarantee program authorized by this section. The agency may  
16 adopt these regulations as emergency regulations in accordance  
17 with Chapter 3.5 (commencing with Section 11340) of Part 1 of  
18 Division 3 of the Government Code, and for purposes of that  
19 chapter, including Section 11349.6 of the Government Code, the  
20 adoption of the regulations shall be considered by the Office of  
21 Administrative Law to be necessary for the immediate  
22 preservation of the public peace, health and safety, and general  
23 welfare. Notwithstanding subdivision (e) of Section 11346.1 of  
24 the Government Code, the regulations shall be repealed within 180  
25 days after their effective date unless the agency complies with  
26 Chapter 3.5 (commencing with Section 11340) of Part 1 of  
27 Division 3 of the Government Code, as provided in subdivision (e)  
28 of Section 11346.1 of the Government Code.

29 (c) Allocations pursuant to subdivision (a) shall be deemed to  
30 be for extraordinary emergency or disaster response operations  
31 costs incurred by the office.

32 SEC. 6. Section 14076 of the Corporations Code is amended  
33 to read:

34 14076. (a) It is the intent of the Legislature that the  
35 corporations make maximal use of their statutory authority to  
36 guarantee loans and surety bonds, including the authority to secure  
37 loans with a minimum loan loss reserve of only 25 percent, unless  
38 the office authorizes a higher leverage ratio for an individual  
39 corporation pursuant to subdivision (c) of Section 14037, so that  
40 the financing needs of small business may be met as fully as

1 possible within the limits of corporations' loan loss reserves. The  
2 agency shall report annually to the Legislature on the financial  
3 status of the corporations and their portfolio of loans and surety  
4 bonds guaranteed.

5 (b) Any corporation that serves an area declared to be in a state  
6 of emergency by the Governor or a disaster area by the President  
7 *of the United States, the Administrator of the United States Small*  
8 *Business Administration*, or the United States Secretary of  
9 Agriculture shall increase the portfolio of loan guarantees where  
10 the dollar amount of the loan is less than one hundred thousand  
11 dollars (\$100,000), so that at least 15 percent of the dollar value  
12 of loans guaranteed by the corporation is for those loans. The  
13 corporation shall comply with this requirement within one year of  
14 the date the emergency or disaster is declared. Upon application of  
15 a corporation, the director may waive or modify the rule for the  
16 corporation if the corporation demonstrates that it made a good  
17 faith effort to comply and failed to locate lending institutions in the  
18 region that the corporation serves that are willing to make  
19 guaranteed loans in that amount.

20 SEC. 7. Section 15346.10 of the Government Code, as added  
21 by Chapter 425 of the Statutes of 1999, is amended and  
22 renumbered to read:

23 15346.11. The Technology, Trade, and Commerce Agency,  
24 with input and assistance from the council, shall establish a  
25 Defense Retention Grant Program to grant funds to communities  
26 with military bases to assist them in developing a retention  
27 strategy. The agency may use grant criteria similar to those for  
28 existing defense conversion grant programs as a basis for  
29 developing the new grant program. To discourage multiple grant  
30 applications for individual defense installations in a region, the  
31 criteria shall be drafted to encourage a single application for grant  
32 funds to develop, where appropriate, a single, regional defense  
33 retention strategy. The structure, requirements, administration,  
34 and funding procedures of the grant program shall be submitted to  
35 the Legislature for review at least 90 days prior to making the first  
36 grant disbursement. The agency may make no grant award without  
37 the local community providing at least 50 percent or more in  
38 matching funds or in-kind services.

1     SEC. 8.   Section 15346.12 of the Government Code, as added  
2     by Chapter 952 of the Statutes of 1998, is repealed.

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